

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROGER LEE RICE, JR.,

Plaintiff,

Case No. 2:16-cv-11775

Magistrate Judge Anthony P. Patti

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT (DE 11), DENYING DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT (DE 14), REVERSING THE DECISION OF
THE COMMISSIONER OF SOCIAL SECURITY and REMANDING FOR
FURTHER PROCEEDINGS**

Plaintiff, Roger Lee Rice, Jr., brings this action under 42 U.S.C. § 405(g) for review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his applications for disability insurance and supplemental security income. Currently before the Court is Plaintiff’s motion for summary judgment (DE 11), the Commissioner’s cross-motion for summary judgment (DE 14), and the administrative record (DE 9).

The parties have consented to my authority. (DE 16.) A hearing was held on June 23, 2017, at which Plaintiff’s counsel (Kenneth F. Laritz) appeared in

person and Defendant's counsel (AUSA Amelia E. Stewart) appeared by telephone.

For the reasons stated on the record, all of which are hereby incorporated by this reference as though fully restated herein, the Court concludes that the Administrative Law Judge's (ALJ's) findings as to Plaintiff's migraine headaches and as to the reduced weight given to the opinions of Plaintiff's treating physician are not supported by substantial evidence. In sum, but with reference to the more specific reasons and criticisms stated from the bench, the ALJ's January 15, 2015 decision: (1) does not include migraine headaches as a severe impairment at Step 2, even though this impairment was included at Step 2 in the June 19, 2013 decision; (2) does not discount Plaintiff's migraine headaches with reference to accurate and substantial evidence; (3) does not clarify how Plaintiff's well-documented migraine headaches (*see, e.g.*, R. at 30-35, 897) are accounted for in the Step 4 RFC determination; and (4) does not cite accurate and substantial evidence in support of discounting the opinion of treating physician Jennifer E. Castillo, M.D. Accordingly, Plaintiff's motion is **GRANTED** (DE 11), Defendant's motion is **DENIED** (DE 14), the ALJ's decision is **REVERSED**, and the case is **REMANDED** to the Commissioner of Social Security for a new hearing and determination consistent with this Opinion and Order. On remand, the Commissioner is **DIRECTED** to:

1. Re-examine whether Plaintiff's migraine headaches should be included as a severe impairment at Step 2;
2. Fully and accurately explain how Plaintiff's migraine headaches are accounted for in the Step 4 RFC determination;
3. Re-evaluate and re-weigh the opinion evidence of Dr. Castillo; and,
4. As necessary, conduct a new Step 5 evaluation.

IT IS SO ORDERED.

Dated: June 26, 2017

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on June 26, 2017, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti